

TENTATIVE RULINGS for CIVIL LAW and MOTION October 15, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

TENTATIVE RULING

Case: CMH Manufacturing West, Inc. v. Sacramento SBB Associates, LLC
Case No. CV CV 08-130
Hearing Date: October 15, 2009 Department Fifteen 9:00 a.m.

The Motion For Summary Judgment or, In The Alternative, Summary Adjudication:

The Court **CONTINUES** the hearing on Plaintiff's Motion For Summary Judgment or, In The Alternative, Summary Adjudication to allow Defendant to complete its discovery. (Code Civ. Proc., § 437c, subd. (h); Declaration of Kevin Dwight, ¶¶ 7-8; Opposition Memorandum of Points and Authorities, p.20:5-28.)

The parties are directed to appear via court call to set the dates for further briefing, if any, and for a new hearing date. No request for hearing is required.

Demurrer and Motion to Strike:

Plaintiff's demurrer to Sacramento SBB, LLC's Second Amended Cross-Complaint ("SACC") is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e) & (f).) Plaintiff's Motion To Strike The SACC is **DENIED**. (Code Civ. Proc., §§ 436 & 437.) The SACC states facts sufficient to constitute a cause of action for fraud and to constitute a claim for punitive damages. (SACC ¶¶ 1-94.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312, or further notice, is required.

TENTATIVE RULING

Case: **Estate of Garla Quarnberg**
 Case No. CV PB 08-148

Hearing Date: **October 15, 2009** **Department Fifteen** **9:00 a.m.**

If competent evidence is presented at the hearing that Kristan Hill-Love had not previously retained a handwriting expert, Ms. Hill-Love may designate Lloyd Cunningham as her forensic document examiner. (Code Civ. Proc., § 2034.280, subd. (a).) Ms. Hill-Love must make her expert available immediately for a deposition. (Code Civ. Proc., § 2034.280, subd. (c).)

Under the circumstances presented, the Court cannot conclude that Kristan Hill-Love's counsel unreasonably failed to list a forensic document examiner in the September 15, 2009, disclosure. Accordingly, Gavin Hill's motion to exclude is **DENIED**.

Counsel are directed to appear. No request for hearing is required.

TENTATIVE RULING

Case: **Jones v. California Shock Trauma Air Rescue**
 Case No. CV PO 09-194

Hearing Date: **October 15, 2009** **Department Fifteen** **9:00 a.m.**

The motion to compel a further response to request no. 10 in the plaintiffs' demand for production of documents, set no. one to Thomas Zoltanski is **GRANTED**. (Code Civ. Proc., § 2031.300, subd. (a).) Plaintiffs have established good cause for the discovery sought. As the responding party, the defendant bears the burden of justifying his objections to the plaintiffs' discovery request. (*Kirkland v. Superior Court of Los Angeles County* (2002) 95 Cal.App.4th 92, 98.) The defendant has not satisfied his burden.

The prohibition in Government Code section 11183 does not apply to the defendant and the defendant has not shown that section 11183 precludes him from disclosing the requested information. The defendant did not object based on Government Code section 11183 when he responded to the plaintiffs' inspection demand.

Evidence Code section 1040 is inapplicable because Thomas Zoltanski is not a "public entity" and there is no evidence that a public entity has forbidden Mr. Zoltanski from disclosing any information.

Defendant failed to establish that Sierra-Sacramento Valley Emergency Medical Services ("S-SV") or the S-SV Regional Continuous Quality Improvement Committee is "a committee established by a local governmental agency to monitor, evaluate, and report on the necessity, quality, and level of specialty health services" within the meaning of Evidence Code section 1157.7. There is no declaration or legal authority setting forth the functions and authority of either entity. The opposition brief speculates that S-SV, not S-SV Regional Continuous Quality Improvement Committee, interviewed Cindy Emch and Amanda Bryson. There is no contention that S-SV is a peer review body/committee. As for the reports by the expert for the Board of Registered Nursing ("BRN"), the defendant failed to establish the source of any

alleged peer review information in such reports, that the source of such information is a peer review body or other entity entitled to protection under Evidence Code section 1157 or 1157.7, nor the nature of any such information.

Defendant also failed to carry his burden of establishing that any attorney work product exists. Finally, Code of Civil Procedure section 1985.3 does not apply. There is no subpoena duces tecum issued to a “witness” within the meaning of Code of Civil Procedure section 1985.3, subdivision (a)(1).

Thomas Zoltanski shall produce a copy of (1) the BRN investigative report, (2) the transcripts of the BRN and/or Department of Consumer Affairs’ interviews with Cindy Emch, Amanda Bryson, and Arden Parker, (3) the handwritten accounts prepared by Cindy Emch and Amanda Bryson on February 25, 2008, and (4) any reports by BRN’s expert that are in the defendant’s custody, control or possession **by no later than October 22, 2009**. This disclosure shall be subject to the terms of the protective order filed in this case on July 7, 2009.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Lopez v. Kuehn**

Case No. CV G 09-236

Hearing Date: October 15, 2009 Department Fifteen 9:00 a.m.

Debbie Lopez’ motion to set aside and vacate the August 20, 2009, entry of default against her is **GRANTED**. (Code Civ. Proc., §§ 473, subd. (b) and 473.5.) Debbie Lopez shall file her answer to the cross-complaint **by no later than October 23, 2009** and ensure that the answer accurately reflects the name of the cross-complainant, Michael Kuehn.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.